Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1978

No. 78-796

TIMOTHY SPERL,

Petitioner,

vs.

PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States of America:

The petitioner, Timothy Sperl, prays that a writ of certiorari issue to review the judgment and order of the Supreme Court of the State of California, filed August 16, 1978, denying Timothy Sperl's petition for writ of

habeas corpus filed before that court.

OPINION BELOW

The petitioner originally filed a petition for writ of habeas corpus before the Superior Court of the State of California for the County of Los Angeles. On March 31, 1978, the Honorable Richard A. Gadbois, Judge of the Superior Court, issued a ruling denying the petition for writ of habeas corpus, without hearing. A copy of that ruling, dated March 31, 1978, is appended hereto as Appendix "A" (Appendix pp. 1 - 3).

Thereafter, a writ of habeas corpus was filed with the Court of Appeal of the State of California, Second Appellate District. That petition was denied, without order to show cause or any other order, by post card dated June 22, 1978. A copy of the post card notice is appended hereto as Appendix "B" (Appendix p. 4).

Thereafter, an original petition for writ of habeas corpus was filed before the Supreme Court of the State of California. That petition was denied without order to show cause or any other order, and without any substantive opinion, by order of the court dated August 16, 1978. A copy of the order of the court of August 16, 1978, is appended hereto as Appendix "C" (Appendix p. 4).

JURISDICTION

The order of the California Supreme Court denying Sperl's petition for writ of habeas corpus appears as Appendix "C" hereto. This Court's jurisdiction is invoked pursuant to Title 28 U.S.C. § 1257(3).

QUESTIONS PRESENTED

1. Whether the actions of a state prosecutor in purposely revealing to the news media a biased report of secret grand jury testimony, and which resulted in a banner headline story in the Los Angeles Times Newspaper, prior to an indictment of the petitioner, deprived the petitioner of due process of law and the right to an impartial grand jury.

2. Whether the actions of the state prosecutor described above denied the petitioner due process of law through the misconduct and improper behavior of the prosecutor.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Amendment Fourteen to the United States Constitution provides in part:

> ". . . . nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction equal protection of the laws."

California Penal Code § 924 provides:

> "Every grand juror who willfully discloses the fact of an information or indictment having

been made a felony, until the defendant has been arrested, is guilty of a misdemeanor."

California Penal Code § 924.1 provides:

"Every grand juror who, except when required by a court, willfully discloses any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury has said, or in what manner he or any other grand juror has voted on a matter before them, is guilty of a misdemeanor."

STATEMENT OF THE CASE

The petitioner, Timothy Sperl, was, in and prior to January, 1974, the Marshal for the County of Los Angeles. On January 23, 1974, Timothy Sperl was indicted by a Los Angeles County, California grand jury and charged with various criminal offenses relating to alleged misconduct in office. Pursuant to a court trial and a verdict entered August 12, 1974, the petitioner was convicted on five counts. The judgment of conviction was affirmed by the Court of Appeal of the State of California, Second Appellate District, Division 5, on January 21, 1976. The opinion is reported as *People v. Sperl* (1976), 54 Cal. App. 3d 640.

It was not until well after Sperl had exhausted his state remedies that the facts became known which led to the habeas corpus proceeding below.

The proceedings against Sperl attracted a great deal

of publicity based upon the fact that he was the Marshal of the Municipal Court for the County of Los Angeles, State of California. Charges against Sperl were investigated by the District Attorney for the County of Los Angeles and ultimately presented to the grand jury by that office. During the course of grand jury proceedings, various news articles appeared from time to time in the Los Angeles Times Newspaper, and other newspapers, which discussed in detail the nature of the proceedings, evidence and testimony produced before the grand jury. Ultimately, on January 23, 1974, the morning edition of the Los Angeles Times published a news article under a four-inch headline on page 1, Part I, stating "MARSHAL FACING COVER-UP CHARGE" and bearing the further heading, "Indictment Expected Today Against L. A. County Official." This article appeared on the very morning that the grand jury was to deliberate on the possible return of the indictment against Sperl, but prior to the conclusion of the evidence. At the time of the publication of the headline, the grand jury, not having concluded the presentation of witnesses, had not yet begun deliberations. The article set out in detail the nature of the expected charges, the evidence which had been and which was expected to be produced, and the testimony offered. These materials were published by the Los Angeles Times although all sessions of the grand jury, pursuant to state law, are held in secret session.

Only a short time prior to filing his petition for writ of habeas corpus, Sperl was informed of the true facts concerning the leak of such secret information to the news media.

In his petition below, Sperl alleged that members of the Office of the District Attorney, who were responsible for the investigation and presentation to the grand jury of the case against Sperl, intentionally and with knowledge of the illegality of their actions, released secret testimony and evidence to the news media. These materials were released for the express purpose of obtaining a news account of the investigation favorable to the District Attorney's Office and unfavorable to Sperl. Sperl further alleged that the action was taken to inflame the community against Sperl and to bias the grand jury, thereby depriving Sperl of a deliberate consideration by that body.

Sperl further alleged that on or about September 10, 1975, and unbeknownst to Sperl, the Assistant Marshal of Los Angeles County, through a letter dated September 10, 1975, informed the Office of the District Attorney for the County of Los Angeles, and the Office of the Attorney General for the State of California, of the facts detailed above and, in particular, informed such offices of the illegal actions of their agents in releasing secret grand jury testimony. At no time has any representative of either the Office of the Attorney General or the Office of the District Attorney informed Sperl of these facts or of the existence of the letter dated September 10, 1975. A copy of that letter is appended hereto as Appendix "D" (Appendix pp. 5 - 13). Sperl was informed of the existence and content of the letter as the result of no official action, and only shortly before the filing of his original petition for writ of habeas corpus.

A petition for writ of habeas corpus was denied

without a factual hearing by the Superior Court. In effect, that court found that even if the allegations were true, no remedy existed. A copy of the ruling of that court is appended hereto as Appendix "A". A subsequent petition filed with the Court of Appeal of the State of California, Second Appellate District, was denied, as reflected in Appendix "B". Finally, an original petition for writ of habeas corpus filed with the Supreme Court of the State of California was denied, again without hearing (Appendix "C").

REASONS FOR GRANTING THE WRIT

I

The Actions Of The Prosecutor In Intentionally Revealing Secret Grand Jury Evidence And Testimony For The Purpose Of Biasing The Grand Jury Deprived The Petitioner, Timothy Sperl, Of Due Process Of Law.

This case comes before this Court upon a denial of a petition for writ of habeas corpus without any evidentiary hearing. The facts alleged in the petition, therefore, were assumed by the courts below to be completely true, and yet, the petition was denied by three separate state courts.

California has established a comprehensive grand jury system which includes in part a requirement of secrecy. California Penal Code §§ 924 and 924.1. Although the right to a grand jury indictment is not guaranteed under the federal Constitution, because this state has created a comprehensive scheme for the return of such indictment, it cannot arbitrarily deprive one citizen of his rights before

that body without offending the Fourteenth Amendment to the United States Constitution. See, generally, *Douglas v. California* (1963), 372 U.S. 353. In spite of this constitutional requirement, state prosecutors have repeatedly attempted to abuse the grand jury system. See, generally, *Johnson v. Superior Court* (1975), 15 Cal. 3d 248, and the concurring opinion of Justice Mosk.

In this case, the prosecutor has transformed that state grand jury procedure into a prosecutorial tool to inflame the community against a potential defendant and to bias the grand jury in order to secure the return of an indictment. In so doing, the prosecutor offended both California law and the United States Constitution.

In discussing the federal grand jury, this Court, in *Pittsburgh Plate Glass Co. v. United States* (1959), 360 U.S. 395, has said that the secrecy provisions are designed to protect the grand jury as a "body of laymen, free from technical rules, acting in secret, pledged to indict no one because of prejudice and to free no one because of special favor." (360 U.S. at 400.) The Court further recognized that:

> " . . . to make public any part of [the grand jury] proceeding would inevitably detract from its efficacy. Grand jurors would not act with that independence required of an acusatory and inquisatorial body." (*Ibid.*)

The history of the grand jury mandates its independence. YOUNGER, "The People's Panel: The Grand Jury in the United States, 1643 - 1941" (1963). It was with that purpose that the grand jury was established in California. *Johnson v. Superior Court, supra,* 15 Cal. 3d at 259

[Mosk, J., concurring]. It is that function which has been abused arbitrarily.

II

The Actions Of The Prosecutor In Unilaterally And Purposely Revealing Secret Grand Jury Testimony To Bias The Grand Jury Was A Violation Of The Prosecutor's Duty Under The United States Constitution And Deprived The Petitioner Of Due Process Of Law.

This Court has consistently and repeatedly recognized that a prosecutor, whether state or federal, owes a special duty to the courts and to the defendant. As explained in *Berger v. United States* (1935), 395 U.S. 78, 88, that duty springs from a recognition that the prosecutor is a representative of a sovereign whose "obligation to govern impartially is as compelling as its obligation to govern at all . . . ." However, unfortunately, prosecutorial improprieties before the grand jury have become the subject of consideration by both federal and state courts. See *United States v. Basurto* (9th Cir. 1974), 497 F.2d 781; *Johnson v. Superior Court, supra.*

In this case, the prosecutor not only treated the petitioner unfairly, for reasons of his own, but in so doing polluted the entire judicial process. Rather than performing his duty in protecting those processes from "prejudicial outside interferences" [*Sheppard v. Maxwell* (1966), 384 U.S. 333, 363], the prosecutor intentionally attempted to improperly influence the decision of the grand jury.

Mr. Justice Frankfurter recognized the dangers

inherent in such prosecutorial action. In his dissent in *Stroble v. California* (1952), 343 U.S. 181, 199 - 202, he stated:

> "To have the prosecutor himself feed the press with evidence that no self-restrained press ought to publish in anticipation of a trial is to make the state itself, through the prosecutor, who wields its power, a conscious participant in trial by newspaper, instead of by those methods which centuries of experience have shown to be indispensable to the fair administration of justice."

The wisdom of the remarks of Mr. Justice Frankfurter in *Stroble* appears to have been adopted by this Court. See *Rideau v. Louisiana* (1963), 373 U.S. 723, and *Turner v. Louisiana* (1965), 379 U.S. 466.

In this case, the prosecutor has abused his power and has polluted the judicial system. However, if the court below is correct, that abuse is without remedy. In that event, the Constitution is left as a naked and ineffectual instrument.

CONCLUSION

The petitioner has suffered before the courts of the State of California criminal convictions as a result of an indictment born of prosecutorial impropriety. In fact, it was only through the continued misconduct of the executive of the State of California that the existence of the prosecutorial impropriety was not discovered for several years. In effect, the courts below have determined that such illegal action of the prosecutor, as compounded by

the cover-up, may have been improper but that the petitioner is entitled to no remedy.

Of course, if that is the case, the prosecutors are not only free to violate their duties, but are encouraged to hide and cloak with secrecy their misconduct in order to secure the fruits of their illegal actions.

This case is an appropriate one for this Court to resolve this issue, whose poignancy grows with the continued and more widespread abuses occurring within the grand jury room. For, the courts below acted upon the petition without hearing; thus, all facts alleged in the petition below were deemed to have been true. The petitioner believes them to be true. All he asks is an opportunity to prove those facts.

The need for this decision is demonstrated by the comments of Justice Douglas on the grand jury system in his dissenting opinion in *United States v. Dionisio* (1973), 410 U.S. 19, 23 [quoting Judge William Campbell at 55 F.R.D. 229, 253]:

> " 'This great institution of the past has long ceased to be the guardian of the people for which purpose it was created at Runnymede. Today it is but a convenient tool for the prosecutor—too often used solely for publicity. Any experienced prosecutor will admit that he can indict anybody at any time for almost anything before any grand jury.' "

It is therefore respectfully submitted that a writ of certiorari should issue to review the judgment and order of the Supreme Court of the State of California denying

the petition for writ of habeas corpus.

Respectfully submitted,

DONALD M. RE

Attorney for Petitioner

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APPENDIX "A"

RULING ON PETITION FOR WRIT OF HABEAS CORPUS

In the Superior Court of California, County of Los Angeles, Department 20.

IN THE MATTER OF THE APPLICATION OF DONALD M. RE, ON BEHALF OF TIMOTHY SPERL.

No. A 304 507.

Honorable Richard A. Gadbois, Jr., Judge.

[Date 3-31-78]

Petitioner's motion to augment the petition by attachment of exhibits is granted.

The court has considered the petition and response, the "demurrer" to petition, other papers filed to date herein, and the several arguments of counsel.

The matter presently before the court is the question whether petitioner has stated facts which entitle him to a remedy, assuming the veracity of all facts so stated. The court views petitioner as having presented two grounds for relief:

1. The conduct of the prosecution in "leaking" grand jury proceedings to the press did in fact influence the grand jury deliberations in a manner adverse to petitioner. In approaching this question, the court views the grand jury proceedings in much the same fashion as if it were now hearing a motion to set aside the indictment in light of the allegations petitioner now makes. Under this test, petitioner has failed to state grounds for relief. As the parties know, this court heard the Penal Code 995 motion in the matter of People v. Sperl, and in that connection reviewed very thoroughly the transcript of the grand

jury proceedings. The court has again reviewed that document in connection with the petition before it. It is clear from such review that the evidence presented to the grand jury more than justified the indictment. The question then becomes whether the prosecutorial indiscretions alleged could have effectively marred the grand jury's conclusions. There is substantial authority for the proposition that prosecutorial misconduct or the use of tainted or inadmissible evidence will not constitute grounds for setting aside the information if other evidence presented gave the grand jury probable cause to indict. In this case, there is certainly alleged prosecutorial misconduct, but its effect, given the court's conclusion above, is speculative at best. There would appear to have been no outside influence in the factual sense by reason of the publicity in question since it merely re-stated evidence the grand jury was then considering. It may be questioned whether the publicity—if seen by the jurors—influenced their state of mind or attitude toward the case, but under applicable law the inquiry is immaterial in light of the finding that the evidence before the grand jury offered abundant probable cause to indict.

2. The conduct of the prosecutor in "leaking" grand jury proceedings to the press was outrageous governmental conduct requiring a strong remedy irrespective of its actual effect.

While the court can envision circumstances under which the remedy petitioner seeks here under this theory might be appropriate, this is not the case. Petitioner cites principally as authority for his proposition the cases which

established the exclusionary rule as the remedy for governmental violations of Fourth Amendment rights. The reference is inapposite. While the conduct of individuals in the District Attorney's office, if found to be as alleged in the petition, is deplorable, the remedy sought here is judicial "overkill." It is not entirely irrelevant that the U. S. Supreme Court has refused to extend the exclusionary rule to evidence presented to a grand jury.

The court is of the opinion that petitioner has failed to state facts which, if established in evidentiary hearings, would entitle him to the relief sought. Accordingly, the Petition for Writ of Habeas Corpus is denied.

Copies of this minute order are sent through U. S. Mail this date, addressed as follows:

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[Minute Order Entered 3-31-78]

POST CARD DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS

In the Court of Appeal of the State of California, Second Appellate District.

In re Timothy Sperl on habeas corpus.

No. 32699.

[Los Angeles, Cal. June 22, 1978]

The Court:

Petition for writ of habeas corpus is denied.

APPENDIX "C"

ORDER DENYING WRIT OF HABEAS CORPUS

In the Supreme Court of the State of California.

In Bank

In re SPERL on Habeas Corpus.

Criminal No. 20583.

[Filed August 16, 1978]

Petition for writ of habeas corpus DENIED.

BIRD

Chief Justice

LETTER DATED DECEMBER 10, 1975

From: Robert F. Cox, Assistant Marshal
Los Angeles County

To: Mr. John E. Howard, Acting District Attorney
Los Angeles County

Dear Mr. Howard:

During the course of events which led to the indictment, trial and subsequent conviction of Marshal Timothy Sperl, several transactions occurred which have given me cause for great concern and deep reflection. I shall first relate to you the facts which I shall follow with questions of you to which I would like an answer. I believe I am entitled by virtue of my position in the Marshal's Department, as well as a member of the public, to get a clear-cut answer to the questions I ask.

THE FACTS–

For several months prior to the indictment of Marshal Timothy Sperl, I acted as a liaison representative between the Marshal's Department and the Office of the District Attorney for the purpose of coordinating the appearance of witnesses from our department so as to minimize the effect of their absence on our workload.

I was also required to produce substantial evidence from within the department records in response to Grand Jury subpenas. Additionally, I appeared personally, I believe, on two occasions before the Grand Jury. As I

was proceeding in accordance with the orders of Judge Patricia J. Hofstetter, who at that time was chairman of the L. A. County Municipal Court Judges Association, it became necessary for me to make frequent contact with members of the District Attorney's Office.

My contact in the main was with Deputy District Attorney Donald Eastman who presented the case against Marshal Sperl to the Grand Jury and prosecuted it to its ultimate trial conclusion. My other contact was with District Attorney Investigator Joseph Medina, who directly assisted Don Eastman in his preparation of the case against Marshal Sperl to the Grand Jury.

I was also responsible for acquiring the services of Marshal Department personnel to support the activities of Mr. Eastman in his preparation of the case. This was done at the request of Mr. Eastman and with the approval of Judge Hofstetter.

As a consequence of the activities which I have described, it became necessary for me to make frequent visits to Don Eastman's office on the 17th floor, Criminal Courts Building, 210 W. Temple, L.A., California. I conversed with Don Eastman and Joe Medina in what appeared to be Mr. Eastman's Office on a number of occasions prior to the indictment of Marshal Sperl. Additionally, I conversed at infrequent intervals with personnel of the Marshal's Department who were working in the District Attorney's Office on the 17th floor of the Criminal Courts Building.

The crux of my concern is that transaction which took place in my presence at approximately 3:00 to 3:30 p.m., on the afternoon of January 22, 1974, in

the hallway immediately adjacent to the entrance to the office of Mr. Bruce Campbell, who was on that date the immediate superior of Deputy District Attorney Eastman (per Mr. Eastman's statement to me). As I entered the hallway into the D.A.'s Office from the main corridor on the 17th floor, I met Mr. Eastman and had been speaking to him for just one moment at which time I observed Mr. William Farr, Los Angeles Times Newspaper Staff Writer, walk past Mr. Eastman and myself in a easterly direction in the hallway and exit on to the main corridor of the 17th floor.

As Mr. Farr passed us his face became rather flushed, and it seemed to me that he appeared slightly flustered. I asked Mr. Eastman, "What is he doing up here?" Mr. Eastman smiled rather broadly and stated, "*We* let him come up here every day to read the Grand Jury transcripts. In return for that he has agreed to slant the story in our favor and against Sperl." I said nothing further concerning this exchange to Mr. Eastman. I believed the conduct described by Mr. Eastman to have been improper, but I was not, at that moment, familiar with the specific legal prohibitions against premature revelation of Grand Jury transcripts.

At a later date, an independent witness informed me that he had personally observed Mr. Farr seated in the office of Mr. Bruce Campbell of the District Attorney's Office for a period of approximately two hours prior to Mr. Farr's encounter with Mr. Eastman and me in the hallway adjacent to Mr. Bruce Campbell's Office.

On the morning of Wednesday, January 23, 1974, the *Los Angeles Times* appeared with a banner headline

stating, "Marshal Facing Coverup Charge". In bold print immediately under the headline was stated, "Indictment Expected Today Against Los Angeles County Official, by William Farr, Times Staff Writer." Substantial information is contained in the article which generally outlines the nature of the charges against former Marshal Sperl.

The first paragraph concludes with " . . . it was learned Tuesday night . . . . " The third paragraph begins with " . . . source within the Marshal's Department said . . . . " The fourth paragraph begins with " . . . these sources also said . . . . " A further quote from Deputy District Attorney Donald Eastman is " . . . about another dozen witnesses . . . " to call before hearing will end.

I was informed by an independent witness that, in the early morning work hours of the District Attorney's Office on Wednesday, January 23, 1974, Investigator Joseph Medina made a statement in his presence to the effect that the Grand Jury was really angry because of the premature news leak to the press as to the forthcoming Sperl indictment.

In the early afternoon of the same day, I had a conversation with Don Eastman on the 17th floor of the Criminal Courts Building wherein he stated, "The Grand Jury was mad as hell because of the big headline coming out in the *Times* before the indictment had even issued." He further stated, "Farr and I agreed that he would hold up his story until the morning after the indictment. Somehow the whole thing got snarled up and we got our wires crossed."

He then laughed.

At the conclusion of this conversation, I was very angry concerning what I had witnessed. My concern in the main was the effect this type of conduct might have on the civil rights of any defendant, not just Marshal Sperl. I could not think of a way at that time to take any clear-cut action to seek redress for this type of wrong as it appeared to me to be sanctioned by the Office of the District Attorney of Los Angeles County.

A short time after Marshal Sperl's indictment I talked with Mr. Eastman in my office, Room 1-210 of the Criminal Courts Building, and told him at length that I detested the type of activity that he had ascribed to himself and Mr. Farr. I also told him I was very disenchanted with his apparent opportunism in determining who was or was not to be a defendant in the Sperl case.

Times reporter William Farr appeared on or about August 15, 1975, at a hearing on Grand Jury reform ideas which was conducted by Los Angeles County Supervisor Edmund D. Edelman. A television news report of that date related in substance that Mr. Farr had presented a statement that he strongly believed that all witnesses appearing before the Grand Jury should be entitled to be accompanied by an attorney of their choice, so that their rights as witnesses might be protected.

I believe it is a matter of national public knowledge that Mr. Farr is an appellant in the action Farr vs. Pritchess, USCA 9th, 72-3171, August 7, 1975,

per McNichols, J. (ljo), wherein the Ninth Circuit Court of Appeals has held that the newspaperman's privilege against disclosure of news source may not serve as a bar to disclosure of the names of those who disobey court orders. It is my understanding that Mr. Farr has taken the strong position publicly that he has a right to a newspaperman's shield to protect his sources of information. He has indicated publicly that he intends to appeal the adverse ruling of the Ninth Circuit Court of Appeals to the United States Supreme Court.

An article in the *Los Angeles Times* of January 28, 1975, describes a court proceeding in Fresno, California, wherein the Managing Editor and two reporters of the *Fresno Bee* were found in contempt of court a combined total of 61 times by Superior Judge Denver Pickinpah for refusing to answer questions related to their source of information in a series of stories about a bribery case. The article goes on further to state Judge Pickinpah ordered a Grand Jury transcript sealed in the described case. "Subseuqently, the *Bee,* in three articles written by Rosato and Patterson, quoted extensively from the jury's transcript . . . . "

Additionally, an article in the *Los Angeles Daily Journal* of March 20, 1975, states, "The California Supreme Court Wednesday denied a petition by the *Fresno Bee* to halt an inquiry by a lower court into how the newspaper obtained a Grand Jury transcript."

I cannot but observe the number of similarities between the conduct described by Donald Eastman in his statement to me with reference to Mr. Farr's access to the Grand Jury transcript before the indictment had been arrived at, and the action which is being pursued against newspaper reporters of the *Fresno Bee* in the articles previously referred to.

A number of questions have arisen in mind as a consequence of the foregoing facts which I have related to the best of my ability.

QUESTIONS –

1. If the conduct described by Donald Eastman were to be established as true, would not this indicate that there is a possibility that a violation of law has occurred?

2. As the Assistant District Attorney of Los Angeles County, were you at the time of Sperl's indictment, or at any time subsequent thereto, aware of the conduct of Deputy District Attorney Eastman, William Farr, or Bruce Campbell as it relates to the foregoing statements of fact?

3. If the facts as I related them were investigated into and established as being true, would this not constitute the possibility of conspiracy between the three aforementioned persons?

4. Would a conspiracy of this type, if established, have effectively deprived former Marshal Sperl of his civil rights under the Constitution to an unbiased and fair hearing, both before the Grand Jury and during the course of his trial?

5. Would not conduct of the type described by Mr. Eastman have been a direct violation of California Penal Code Section 938.1 B, which states, "The transcript shall not be open to the public until 10 days after its delivery to the defendant or his attorney?"

6. If the Grand Jury in Sperl's indictment had in toto been aware of the premature release of information from the Grand Jury transcript—considering 12 witnesses were still to appear—would they have been in " . . . a state of mind in reference to the case or to either party which will prevent them from acting impartially and without prejudice to the substantial rights of the party . . . ", and if they were in a prejudiced state of mind, would not their having continued as Grand Jurors in that case have been a violation of California Penal Code Sec. 939.5?

I have reflected at great length on the enormity of the effect of this type of conduct, if in fact it occurred as stated by Mr. Eastman to me and by the observation of independent witnesses. My personal contact with the Office of the District Attorney in relation to the Sperl case has given rise to grave doubts as to whether your office will vigorously pursue an investigation into the facts as I have related them. I have, therefore, elected to send a copy of this letter to the Attorney General of the State of California. By virtue of the fact that Evelle J. Younger, the current Attorney General of the State of California, immediately preceded the late Joseph Busch as District Attorney of Los Angeles County, I have determined

it necessary to bring the contents of this letter to the attention of Edward H. Levi, Attorney General of the United States in Washington, D. C.

In view of the fact that there is a natural human tendency for local officials in any situation to sometimes gloss over problems in their own jurisdiction, I felt it necessary to proceed as I have.

I wish it expressly understood that I am not releasing copies of this complaint to other than appropriate law enforcement agencies charged with the responsibility for investigating into complaints of this type.

I expect Mr. Eastman to vehemently deny my allegations as to his statements to me. I herewith offer to undergo a polygraph examination as to any of the statements I have made with reference to the factual situation. I challenge Mr. Eastman to do the same.

I believe it is quite possible that a number of Grand Jurors as well as the independent witnesses to which I refer will support the factual statements that I have outlined.

The foregoing statement of fact is true to the best of my knowledge at this time, and I hereby swear to it under the penalties of perjury at Los Angeles, California, September 10, 1975.

Very truly yours,

Robert F. Cox,

Assistant Marshal
Los Angeles County

[Copies shown directed to the Attorney General of the United States and to the Attorney General of the State of California, together with attachments of the newspaper articles referred to in the letter.]

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
County of Orange)

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and employed in the County of Orange, State of California, over the age of eighteen years and not a party to the within action or proceeding; that

My business address is 326½ Main Street, Huntington Beach, California 92648, that on NOVEMBER , 1978, I served the within PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA (Sperl v. People) on the following named parties by depositing the designated copies thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office in the City of Huntington Beach, California, addressed to said parties at the addresses as follows:

Clerk, Los Angeles County Superior Court
111 North Hill Street
Los Angeles, California 90012 (1)
For: Hon. Richard A. Gadbois, Jr.

Office of the Attorney General
800 Tishman Building
3580 Wilshire Blvd.
Los Angeles, Ca. 90010 (2)

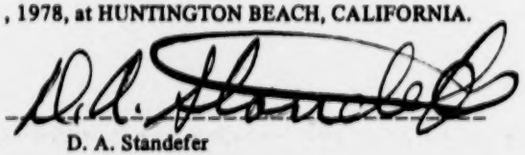
Office of the District Attorney
County of Los Angeles
Appellate Division
849 So. Broadway, 11th Floor
Los Angeles, Ca. 90014 (1)

Office of the County Counsel
648 Hall of Administration
500 West Temple Street
Los Angeles, Ca. 90012 (1)

Clerk, Supreme Court of California
3580 Wilshire Boulevard
Los Angeles, California 90010 (1)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November , 1978, at HUNTINGTON BEACH, CALIFORNIA.



D. A. Standefer

41 COPIES VIA NETWORK COURIER SERVICE TO THE SUPREME COURT OF THE UNITED STATES, U. S. SUPREME COURT BUILDING, WASHINGTON, D. C. 20543 - FILING FEE ENCLOSED.

Dean-Standefer, 326½ Main St., Huntington Beach, Ca. 92648
(714) 536-7161